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FEDERAL COMMUNICATIONS COMMISSION
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**BEFORE THE**
**FEDERAL COMMUNICATIONS COMMISSION**
**WASHINGTON, D.C. 20554**

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| In the Matter of | ) | |
| | ) | |
| Implementation of the Local Competition Provisions in the Telecommunications Act of 1996 | ) | CC Docket No. 96-98 |
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To: The Commission

# COMMENTS OF COX COMMUNICATIONS, INC.


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## SUMMARY

The rules the Commission adopts in this phase of the local competition proceeding will be important elements of the Commission's overall local competition rules. The Commission should adopt specific rules governing area code relief planning and central office code assignments and should adopt a model for network information disclosure based on previously-adopted advanced network disclosure requirements.

First, the Commission should prohibit the use of area code "overlays" to relieve area code exhaust until permanent number portability is implemented in the region where an overlay is proposed. Overlays should be a last resort because of their impacts on customers, but they also discriminate against new competitors in the telecommunications marketplace. Portability will eliminate the discriminatory potential of overlays because it will separate the numbers from carriers and, thus, is a prerequisite to allowing any future overlays.

The Commission also should require equitable assignment policies for central office codes. There is a history of discrimination by incumbent LECs against wireless carriers and new competitors, both in the form of denying or delaying code requests and through selectively-imposed "code opening" charges. These and other discriminatory practices should be prohibited.

Finally, the Commission should require timely disclosure of all information regarding changes in incumbent LEC network operations. Disclosure should be made to all interconnecting carriers and to regulators, on a schedule similar to that adopted by the Commission in the Computer III proceeding. The Commission also should adopt specific penalties for failure to disclose required information, including notifications by the offending incumbent LEC to customers of affected carriers.

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To: The Commission

## COMMENTS OF COX COMMUNICATIONS, INC.

Cox Communications, Inc. ("Cox"), by its attorneys, hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-referenced proceeding.[1/] These comments address issues relating to numbering administration and requirements for notice of changes in incumbent local exchange carrier networks under new Section 251(b) of the Communications Act.

## I. INTRODUCTION

As described in its comments in the first phase of this proceeding, Cox has been a pioneer in the development of new communications technologies and has made aggressive plans to be a new competitor in the telephone marketplace. As the fifth-largest cable operator in the country, Cox has made a substantial commitment to the telecommunications marketplace, as a provider of both wireless service and traditional telephony.

Cox is participating in this proceeding because proper implementation of the local competition provisions of the Telecommunications Act of 1996 is crucial to the development

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1/ Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Notice of Proposed Rulemaking, CC Docket No. 96-86, FCC 96-182, rel. Apr. 19, 1996 (the "Notice").

of a fair competitive marketplace for local telephone services.[2/] While the elements of the Notice that are the subject of these comments are not the most complex the Commission will face, they are important to the development of competition. Telephone numbering administration is important because competitors cannot serve their customers without numbers. Similarly, the interconnection requirements of new Section 251 of the Communications Act will have little effect if incumbent LECs do not provide adequate notice of changes in their networks to interconnecting competitors and neighbors.

Congress recognized these concerns when it included provisions to deal with these issues in the 1996 Act. Section 251(e) gives the Commission plenary authority to address numbering issues and to make numbers available "on an equitable basis."[3/] As described below, the Commission should use that power to promote the development of competition by adopting specific rules governing area code relief planning and assignment of central office codes.

Section 251(c)(5) addresses the issue of network changes by requiring incumbent LECs to "provide reasonable public notice of changes" to their networks. This requirement is necessary to prevent incumbent LECs from handicapping their competitors with unannounced changes to essential network protocols and facilities. Cox proposes that the Commission adopt specific rules, modeled on previously-adopted advance disclosure

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2/ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (the "1996 Act").

3/ 47 U.S.C. § 251(e).

requirements for network charges, to ensure that competitors are provided with adequate notice of changes.

## II. THE COMMISSION SHOULD ADOPT NUMBERING RULES THAT PROMOTE THE DEVELOPMENT OF COMPETITION. (Notice Sections II.E and II.C.3.)

The Notice proposes to delegate certain numbering administration functions to the states, including area code relief planning and central office code assignments.[4/] While it is reasonable for the Commission to delegate locally-oriented tasks to the states, it also must provide specific guidance to ensure fair administration of and reasonable uniformity in telephone numbering. In light of the long history of incumbent LEC efforts to manipulate numbering policy to their competitive advantage, Commission guidance concerning area code relief and central office codes is particularly important.

### A. Area Code Overlays Should Be Prohibited Until Permanent Number Portability Is Implemented.

The Commission should define the scope of the states' role in area code relief by prohibiting use of area code overlays until permanent local telephone number portability is implemented in the region where an overlay is proposed.[5/] In general, overlays should be a last resort in area code relief planning. They should be flatly prohibited, however, until portability is implemented.

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4/ Notice at ¶ 254.

5/ As described in the Notice, an area code overlay provides relief for an exhausting area code by placing the new area code over the entire geographic area of the old area code. In an overlay, numbers with different area codes would be intermingled throughout the overlay area.

There are several reasons to limit the use of overlays. As Cox and others have established before the Commission and in state proceedings, overlays are confusing to consumers and break down the basic design of the North American Numbering Plan (the "NANP"). At the same time, overlays provide significant competitive advantages for entities that already have numbers in the old area code, *i.e.*, incumbents. When an overlay is implemented, the incumbents will retain numbers in the old area code and new entrants will be forced to take their numbers predominantly from the new area code. New entrants will have a competitive disadvantage because the new area code will be perceived as far less desirable.[6/] Further, many current overlay proposals violate the dialing parity requirements of the 1996 Act because customers of incumbents will be required to dial as many as 11 digits to reach customers of new entrants, while dialing only 7 digits to reach other customers of the incumbent.[7/]

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6/ For instance, absent number portability, customers of new entrants will not only be required to get new telephone numbers, but to get new numbers in a new area code. These competitive inequities have been recognized in state area code proceedings. See AirTouch Communications and MCI Telecommunications Corp. v. Pacific Bell, Case Nos. 94-09-058 and 95-01-001 California Pub. Util. Comm'n, Decision No. 95-08-052, Aug. 11, 1995 (the "California 310 Order"); Proposed 708 Relief Plan and 630 Numbering Plan Area Code, Declaratory Ruling and Order, IAD File No. 94-102, FCC 95-19 (rel. Jan. 23, 1995) (the "Chicago Area Code Order"). These issues are discussed at more length in the comments of Cox's parent company in response to Teleport Communications Group's request for a declaratory ruling on Pacific Bell's original plan for implementing an overlay in the 310 area code, copies of which are attached hereto as Exhibits 1 and 2.

7/ See 47 U.S.C. 251(b)(3) (requiring dialing parity). The only way to implement an overlay without violating the dialing parity provision is to require uniform ten digit dialing for all calls in the overlay area. This would needlessly increase burdens on consumers, and is another reason to disfavor overlays.

The competitive and dialing parity issues raised by overlays will be solved once permanent local number portability is implemented.[8/] In a portable environment, telephone numbers are no longer associated with particular carriers and it is likely that new customers will receive their numbers from a pool that is available to all carriers. Thus, in a portable environment, the incumbents' competitive advantage from an overlay evaporates. Once portability is implemented, overlays also will not necessarily violate the dialing parity requirements of the 1996 Act, because the number of digits dialed will depend on the customer being called, not the carrier that serves the customer. Until permanent service provider local number portability is implemented, however, overlays still pose risks to competition.

It also is evident that risk of overlays is, if anything, on the increase. While the Commission's Ameritech Order has provided some guidance to carriers and states, additional guidance is needed to prevent the proliferation of anticompetitive overlays. Recently, the Maryland Public Service Commission ordered the implementation of not one, but two overlays, which together will cover the entire state of Maryland.[9/] In California, Pacific Bell has proposed overlays for every single area code where relief planning has begun since 1993,

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8/ The consumer issues raised by overlays will remain, but it is possible that, in rare circumstances, the need for particular overlay might be sufficient to overcome consumer concerns.

9/ See "Area Code Overlay Plan Okd," STATE TEL. REG. REP., Dec. 14, 1995. The Maryland overlays are of particular concern because they cover large areas, in one case ranging from the western tip of the state to the Eastern Shore, increasing the potential for customer confusion and harmful effects on competition.

a total of at least seven area codes to date.[10/] Similarly, a Texas administrative law judge has suggested implementing service-specific overlays to relieve future area code exhausts in Dallas and Houston, an action that would be directly contrary to the requirements of the Commission's Ameritech Order.[11/]

With increasing efforts by LECs to implement overlays, Commission action is necessary. The Commission should, as part of any delegation of area code relief authority to the states, adopt specific rules to govern the types of relief the states may adopt. Those rules should prohibit the use of overlays until the anticompetitive effects of overlays are ameliorated by full-fledged number portability.[12/]

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10/ The area codes where Pacific Bell has proposed overlays include 310, 619, 818, 415, 906, 213 and 714. Pacific Bell's advocacy of an overlay in 619 was particularly striking because the 619 area code covers an area roughly the size of Pennsylvania. Ultimately, the California Public Utilities Commission determined that the 310 area code should be split and Pacific Bell grudgingly agreed to splits in the 619 and 818 area codes. The other four area codes are the subject of ongoing disputes regarding whether splits or overlays will be used to provide relief.

11/ See "Texas PUC Orders Area Code Splits to Relieve Phone Number Shortages," STATE TEL. REG. REP., Mar. 7, 1996; see Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech-Illinois, Declaratory Ruling and Order, 10 FCC Rcd 4596 (1995) (the "Ameritech Order"). The Ameritech Order does not directly prohibit service-specific overlays, but there appear to be few, if any, circumstances under which the Ameritech Order would permit an overlay for a specific service.

12/ The Commission also can reduce the potential that overlays will be adopted by specifically authorizing certain area code relief solutions. For instance, three-way area code splits reduce the need for future relief planning. It also may be appropriate in some circumstances to permit area code splits with relatively unbalanced lives, so long as the region that gets the new area code also is the region with the longer area code life. This may permit splits today in areas that otherwise would be candidates for overlays, with overlays to follow after number portability is implemented.

### B. The Commission Should Require Central Office Code Assignment to Be on a Nondiscriminatory Basis.

Central office codes are essential to the provision of telecommunications services. Without them, it is impossible for callers to reach a carrier's customers. Indeed, the Commission has recognized the importance of central office codes for many years.[13/] If, as proposed in the Notice, the Commission delegates its authority over central office code assignments to the states, it must provide guidelines for the states to follow in administering these codes.

Guidance is important for several reasons. First, there is evidence of continuing discrimination in the assignment of central office codes. The Commission has attempted to address this problem for many years, particularly in the context of the Cellular Interconnection orders, but it persists. In fact, the Commission has received complaints about two separate incumbent LECs and their discriminatory management of central office codes since the beginning of 1996.[14/] Some incumbent LECs also discriminate against new entrants by selectively levying "code opening" charges whenever they assign central office codes to wireless providers or certain other carriers. These charges can be significant, ranging up to tens of thousands of dollars for a function that is provided as a reciprocal obligation and without charge when other co-carriers open new central office codes.

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13/ See The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, Declaratory Ruling, 2 FCC Rcd 2910 (1987) (the "Cellular Interconnection Order"), aff'd 4 FCC Rcd 2369 (1989).

14/ See "Common Carrier Bureau Requests Comments on Central Office Code Assignments Declaratory Ruling," FCC Rpt. No. CC 95-63, rel. Oct. 19, 1995.

Moreover, without specific Commission guidance, it is likely that states will develop inconsistent regimes. This already is happening in area code relief, the only numbering function that states now perform on a regular basis. As noted above, some states have policies that discourage area code overlays, while others have taken much different tacks. The risk of inconsistent policies may be particularly significant for central office code assignment because policies that discriminate against entities with only a few central office codes will be attractive to states trying to put off the need for area code relief.[15/] It also is important to maintain consistent number assignment regimes because any lack of uniformity will disproportionately affect new entrants, which will have fewer resources for administrative matters such as complying with varying number policies and generally will maintain a smaller presence in any state than dominant carriers such as Pacific Bell or Bell Atlantic.[16/]

Thus, the Commission should adopt specific policies for central office code assignment. These policies should require assignment of central office codes on a non-

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15/ Typically, the only way to put off the need for area code relief is to limit central office code assignment, and policies that limit the assignment of central office codes hurt new entrants more than incumbents. Incumbents have more numbers and, consequently, a greater ability to absorb new growth. For instance, a carrier with 100 central office codes and a 90 percent fill rate has about 100,000 unused numbers, but a carrier with 5 central office codes and the same fill rate has about 5,000 unused numbers. At the growth rates experienced by new entrants, 5,000 numbers could represent less than a one month supply of numbers. Thus, the new entrant has little room for error and a significant chance of running out of numbers. As the threshold for obtaining a new central office code increases, the risks to new entrants increases as well.

16/ Even at industry meetings these differences in resources are evident. For example, in area code relief planning meetings in California, as many as half of the participants are Pacific Bell employees, while most new entrants that participate are represented by a single person.

discriminatory basis, such as through the existing central office code assignment guidelines developed under the Commission's auspices, and should not permit states or the carriers currently administering central office codes to deny codes to new entrants. The Commission also should prohibit carriers from levying "code opening" charges to avoid imposing barriers on the entry and expansion of new competitors. These policies will help to create a level playing field in numbering assignments.

## III. THE COMMISSION MUST REQUIRE INCUMBENT LECS TO PROVIDE ADEQUATE NOTICE OF NETWORK CHANGES. (Notice Section II.B.4.)

The Commission also must implement the provisions of the 1996 Act requiring incumbent LECs to "provide reasonable public notice" of changes to their networks.[17/] The Commission should do so by adopting a rule that requires incumbent LECs to provide notice when they decide to make such changes and, in any event, no later than the "make/buy" point already in place under the Commission's Open Network Architecture rules for notifications to enhanced services providers, adjusted to reflect their application to telephony and interconnection.

The notice provision is crucial to the ongoing reliability and interoperability of networks that connect to those of incumbent LECs. Without notice of changes in the operations of incumbent LEC networks, competitors will be unable to provide efficient service. In some cases, if a competitor is not properly notified of changes it will be unable to provide signaling information necessary to complete a call to an incumbent LEC in the

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17/ 47 U.S.C. § 251(c)(5).

proper format, or to use the signaling information provided by the incumbent LEC in a new format. At best, such incompatibilities could disable features such as call forwarding or calling number identification. At worst (and perhaps more likely), incompatibilities could make it impossible to complete calls between networks. In addition, incumbent LECs' technical changes may permit competitive LECs to implement new features that they wish to provide, so proper prior notice of these changes may permit them to serve their customers better.

For these reasons, the Commission should require incumbent LECs to provide notice of changes in their networks to competitive LECs at the earliest possible time and in ways that will increase the likelihood that the notice will be meaningful. While the earliest possible time for notice would be the point when the incumbent begins to consider a change, that may not be practical because it is difficult to pinpoint when a change first is considered. A more realistic point for disclosure, and one that is less burdensome for incumbent LECs, would be the time when the LEC makes the decision to implement a change. Notice when a decision is made, *i.e.,* at the same time the information is made available internally, will give competitors the opportunity to respond to the change and adapt their networks as necessary to accommodate the incumbent LEC's needs.

As a practical matter, it may be difficult to establish violations of the notice requirement if it is based on the date of the decision to implement a change. Consequently, the Commission should establish an additional minimum requirement for disclosure that conforms to the current rules for BOC disclosures of network changes to enhanced service

providers, as suggested in the Notice.[18/] In particular, the "make/buy point" is the absolute latest date on which disclosure should be permitted without penalty because it also represents the point when it begins to be difficult or impossible for a competitor to implement changes in its own network before the incumbent acts. Thus, the proposal in the Notice represents the minimum possible standard for disclosure.

The Commission also should specify the mechanism for disclosure and appropriate penalties for violation of disclosure requirements. While the Notice suggests using network forums to facilitate disclosure, not all carriers participate in these forums on a regular basis (including many smaller incumbent LECs). The Commission should require more direct disclosure, in the form of written notice to the Commission, to state regulators in all affected states and to designated personnel at every connecting telecommunications carrier. In addition, when an incumbent LEC begins interconnection negotiations with a carrier, it should be required to disclose any unimplemented network changes that are subject to the notice requirement at the outset of negotiations. Adopting these disclosure requirements will prevent incumbent LECs from blindsiding their competitors with changes that have been "disclosed" in obscure fora or in other ways that are not likely to reach the attention of the competitors. Given the importance of these disclosures, and the Congressional mandate for them, maximum disclosure is the prudent policy for the Commission to adopt.

The Commission also should adopt specific penalties for failure to provide the required disclosure in addition to forfeitures and other existing remedies. In particular, any incumbent LEC that is found to violate the disclosure requirements should be required to

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18/ Notice at ¶ 192.

inform all affected customers of interconnecting carriers that any adverse effects of the improperly disclosed network charges resulted from the incumbent LEC's actions. Otherwise, customers of affected interconnecting carriers are likely to blame their own carriers rather than the real culprit.

## IV. CONCLUSION

For all of these reasons, Cox respectfully requests that the Commission adopt rules in accordance with these comments.

Respectfully submitted,

**COX COMMUNICATIONS, INC.**

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May 20, 1996

**EXHIBIT 1**

**EXHIBIT 1**

**Comments of Cox Enterprises, Inc.**

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| Teleport Petition for Declaratory | ) | IAD File No. 94-104 |
| Ruling on Pacific Bell Area Code | ) | |
| Numbering Plan | ) | |

**COMMENTS OF COX ENTERPRISES, INC.**



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January 30, 1995

## SUMMARY

Cox Enterprises, Inc. supports Teleport's petition. In light of the Commission's recent action in the *Chicago Area Code Order,* the Commission should declare Pacific Bell's effort to impose an overlay area code in California unlawful. The Commission also should adopt a policy favoring geographic splits to relieve exhausted area codes. Finally, the Commission should speed the availability of true telephone number portability to eliminate the competitive concerns that now arise in connection with area code relief.

First, the Commission should hold that Pacific Bell's overlay plan violates the Communications Act. The 310 plan incorporates "exclusion" and "take-back" elements, and these features were found to be both unreasonable and unreasonably discriminatory in the *Chicago Area Code Order.* Moreover, Pacific Bell's decision to propose the 310 overlay even though all non-LEC parties objected, evidences its knowledge of the anticompetitive nature of the proposal.

Overlay plans also should be disfavored generally. Geographic splits are preferable to overlays because they are well-understood, do not discriminate and do not raise difficult issues regarding dialing plans and customer confusion. The recent telephone company rush to adopt overlays is not a response to the needs of the telephone networks, but an effort to stifle emerging competition. Thus, the Commission should step in now to express a general policy favoring area code splits whenever they are possible.

Finally, the Commission should expedite the availability of true number portability, that is, seamless integration of the functions that will permit a customer to retain his number when changing carriers. Portability eliminates many of the anticompetitive effects of overlays and helps conserve numbers. The Commission must take an active role if number portability is to become a reality.

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**COMMENTS OF COX ENTERPRISES, INC.**

Cox Enterprises, Inc. ("Cox"), by its attorneys, hereby submits its comments in response to the above-referenced petition for declaratory ruling.[1/] Cox concurs in Teleport's request for additional guidance from the Commission regarding the principles that should govern introduction of new area codes. Moreover, the circumstances of the relief plan for the 310 area code demonstrate that there is a continuing need for Commission oversight of area code relief processes.

## I. Introduction

This proceeding concerns Pacific Bell's proposed plan to respond to the pending exhaustion of the numbers available in the 310 area code. Over the objections of all but one other participant in the area code relief process, Pacific Bell has proposed to respond by implementing an "overlay" area code, *i.e.*, an area code that covers the entire geographical area of the 310 area code. (The other participants favored following the

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1/ Commission Seeks Comment on Teleport Petition for Declaratory Ruling on Pacific Bell Area Code Numbering Plan, IAD File No. 94-104, DA 94-1482, released December 15, 1994.

normal, and well-understood, process of splitting the area code.) Pacific Bell also proposed to require wireless carriers and emerging telecommunications competitors, including PCS providers, to begin using the overlay area code more than 18 months before incumbent local exchange carriers and to assign some numbers in the 310 area code to wireless carriers only on a "conditional" basis, with the likelihood that those numbers would be withdrawn in favor of numbers in the overlay. These decisions also were made over the protests of the vast majority of all participants in the process.

Cox has an interest in this proceeding because of its longstanding commitment to the development of local telephone competition. In particular, Cox has played an important role in the development of personal communications services ("PCS"), a role the Commission recognized by awarding a Pioneer's Preference to Cox to provide service in Southern California.[2/] Cox has now received its license for the Southern California system and, thus, is directly concerned with all numbering issues affecting that area. In addition, Cox is bidding for additional PCS licenses, directly and through the WirelessCo partnership, so it has a further interest in assuring that telephone numbering resources are properly assigned.

The recent controversies over area code assignment demonstrate that Cox and the Commission should be concerned about how incumbent telephone companies exert

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2/ *See Memorandum Opinion and Order*, American Personal Communications, Cox Cable Communications, Inc. and Omnipoint Communications, Inc., File Nos. 15000-CW-L-94, 15001-CW-L-94, 15002-CW-L-94, FCC 94-318, adopted December 13, 1994, released December 14, 1994.

control over the assignment and use of numbering resources. As the Commission found in its *Chicago Area Code Order,* certain telephone companies have proposed unlawful area code relief plans.[3/] The 310 relief plan violates the principles delineated in the *Chicago Area Code Order* and also violates basic telephone industry area code relief planning guidelines.

Moreover, as proposals for area code overlays become more common, it is important for the Commission to affirm geographic area code splits should be favored over overlays in all but the most exceptional cases. Splits provide as much relief as overlays while retaining the basic and generally understood characteristics of the North American Numbering Plan ("NANP"). In contrast, overlays unreasonably favor incumbents over new entrants in the telecommunications marketplace and create difficult consumer issues that can be avoided in splits.

The Commission also should recognize that the rush to adopt overlays by incumbent local exchange carriers is more a function of telephone companies' anticompetitive agendas than actual need. In almost every case where an overlay is proposed, a split would have been used in the past. It is only as competition has threatened to emerge that overlays have become the telephone companies' solution of choice for the exhaustion of existing area codes.

Finally, the Commission can reduce the need for additional telephone numbers and resolve many of the competitive issues created by overlays by hastening the advent of

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3/ Proposed 708 Relief Plan and 630 Numbering Plan Area Code, *Declaratory Ruling and Order,* IAD File No. 94-102, FCC 95-19 (rel. Jan. 23, 1995) (the *"Chicago Area Code Order"*).

telephone number portability. True number portability, that is, seamless integration of all the functions necessary to permit a user to retain his telephone number when he switches from one carrier to another, would eliminate the competitive advantages that incumbents gain from overlays. Equally important, true portability will help to conserve numbers as new carriers enter the telecommunications marketplace.

## II. The Proposed Relief Plan for the 310 Area Code Is Unlawful and Was Not Adopted in Accordance with Industry Policies.

The basic issue in this proceeding is whether the 310 relief plan is unlawful. Analysis of the plan in light of the criteria established by the Commission in the *Chicago Area Code Order* establishes that the plan violates the Commission's requirements. Moreover, the procedures used to adopt the plan violate the basic telephone industry guidelines for resolving issues among interest groups. While these guidelines are not binding on the Commission, the nature of Pacific Bell's violation of the guidelines establishes that the intent of its proposed plan is unlawful.

In the *Chicago Area Code Order,* certain practices proposed in Ameritech's relief plan for the 708 area code were found to be unlawful. These practices included assigning 708 numbers to landline companies while requiring wireless companies to use the new area code (termed the "exclusion proposal" by the Commission); and requiring wireless companies to return 708 numbers and change their customers to the new area code (the "take-back proposal"). *Chicago Area Code Order* at ¶ 21. These practices, along with Ameritech's "segregation proposal," were deemed to be unreasonably discriminatory in

violation of Section 202(a) of the Communications Act. *Id.* at ¶ 26. They also were found to be unreasonable practices in violation of Section 201(b) of the Act. *Id.* at ¶ 35.

Pacific Bell's 310 proposal incorporates both the "exclusion" and "take-back" elements of the 708 relief plan and, therefore, also violates Sections 201(b) and 202(a) of the Act. Under Pacific Bell's plan, wireless carriers and new entrants would be prohibited from using new NXX codes in the 310 area code while existing wireline carriers, most notably Pacific Bell itself, would be permitted to continue to obtain 310 NXX codes for 18 months or more.[4/] This is functionally identical to Ameritech's illegal "exclusion" proposal. *Id.* at ¶¶ 26, 35.

Pacific Bell also proposes to assign some NXX codes to wireless carriers and new entrants on a "conditional" basis, with the understanding that Pacific Bell may, at some later date, require those codes to be returned for use by wireline customers. The reassignment of these conditional codes also will require wireless carriers to change the telephone numbers their customers use. In addition, given the long delay before landline incumbents will be required to use the new area code, and given the likely exhaust of the 310 area code during that time, it is almost certain that some or all of the conditional NXX codes

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4/ The proposal is even more insidious than it first appears because Pacific Bell is not required under the Commission's Rules to maintain a separate subsidiary for its PCS operations. Thus, there is no assurance under its proposed overlay plan that Pacific Bell will not favor its PCS operations with assignments of NXX codes for the "old" area code even after these NXX codes become available to other PCS providers.